

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6018 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 No

DIVISIONAL CONTROLLER

Versus

C R DARBAR

Appearance:

1. Special Civil Application No. 6018 of 1987
MR HARDIK C RAWAL for Petitioner No. 1
RULE SERVED for Respondent No. 1
MR AJ DESAI AGP for Respondent No. 2
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CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 01/11/2001

ORAL JUDGEMENT

1. Heard the learned counsel Mr.Rawal for the
petitioner and the learned Assistant Government Pleader

Mr.A.J.Desai for the respondent No.2. None present for the respondent No.1, though served.

2. This petition under Article 226 of the Constitution, filed on behalf of the Gujarat State Road Transport Corporation, seeks to challenge the order of the Conciliation Officer, Mehsana whereby the action of the petitioner to dismiss the respondent No.1 was not approved under Section 33 (2) (b) of the Industrial Disputes Act, 1947.

3. It appears from the record that the respondent No.1 was involved in a fatal accident and the charges levelled against him were proved at the departmental enquiry and he was dismissed from service with effect from 29.1.1987. The petitioner had, then, applied for approval of the action taken and, by the impugned order, the application was rejected on the grounds that the departmental action was not completed within the prescribed period of four months; that the passengers whose statements were recorded were not allowed to be cross-examined and that the full amount of notice pay was not paid to the respondent workman.

4. Even as the aforesaid impugned order dated 6.5.1987 was being challenged by the petition which appears to have been entertained and admitted on 19.11.1987, the respondent workman had approached the petitioner with the proposal of a settlement. It is given out by the learned counsel for the petitioner, on instructions, that the proposal made by the respondent workman was accepted with the conditions that the respondent workman was to be reinstated without backwages and with the punishment of stoppage of two increments with permanent effect. Accordingly, the consequential order reinstating the respondent No.1 was also made and, under such circumstances, the challenge to the impugned order did not survive as the original order of dismissal itself stood modified to that of lesser punishment by way of an amicable inter se settlement between the parties.

5. Accordingly, the petition is disposed as having become infructuous. Rule is discharged with no order as to costs.

Sd/-

1.11.2001 (D.H.Waghela, J.)
(KMG Thilake)